IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.770 of 2008
BIDYARTHI PRASAD
Versus
THE STATE OF BIHAR & ORS
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4. 18.12.2008. This revision has been preferred against the order dated 12th October,2007 passed by F.T.C.-IInd, West Champaran, Bettiah in Cr. Appeal No.27 of 2000 thereby the appeal filed by the petitioner against the order of S.D.M, Bettiah dated 22.4.2000 passed in Case No.1326 M of 1999 under section 188 I.P.C. has been rejected.

Heard the learned counsel for the petitioner as well as the State.

It appears from the record that there was a proceeding under section 144 Cr.P.C. between the parties. During continuance of prohibitory order passed under section 144 Cr.P.C., a petition was filed on behalf of the petitioner for filing of case under section 188 I.P.C. against the opposite parties for violation of the prohibitory order by raising a wall over the dispute land.

A report was called for. The show cause was also filed by the opposite parties. After hearing both the parties, the learned S.D.M. rejected the prayer for filing case under section 188 I.P.C. against the opposite parties. Apparently, the order passed by the learned S.D.M. is a revisable order and not appealable. Inspite of that, the petitioner filed Cr. Appeal which is actually for all practice purposes is deemed to be a criminal revision. Against that order, this revision has been preferred. Apparently, it is a second revision preferred by the same party, which is barred under section 397(3) of the Cr.P.C.

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In view of the facts and circumstances, this revision is not maintainable in the eye of law.

Accordingly, the same is hereby rejected.

(Ghanshyam Prasad)

N.H./

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